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SUMMARY RECORD OF THE 543rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 26 May 1999, at 10 a.m.

Chairperson: Mrs. MBOI

CONTENTS

CONSIDERATION OF REPORTS OF STATE PARTIES (continued)

Initial report of Benin

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATE PARTIES (agenda item 6) (continued)

Initial report of Benin (CRC/C/3/Add.52 and Corr.1; HRI/CORE/1/Add.85; CRC/C/Q/BEN/1)

1. At the invitation of the Chairperson, Mr. Gnonlonfoun, Ms. Koumakpai, Mrs. d'Almeida-Vieyra, Mrs. Sodjiedo-Hounton and Mr. Oguin (Benin) took places at the Committee table.

2. Mr. GNONLONFOUN (Benin) said that the initial report of Benin had been compiled six years after the end of the "revolutionary period" of the country's history, a time characterized by much talk and little action. A new Constitution had been adopted in 1990, the year of Benin's ratification of the Convention on the Rights of the Child, and since that date the Government had been engaged in a vast political, economic and social reconstruction effort. The recent political history of the country explained why the instruments protecting the rights of the child in Benin were somewhat antiquated, and why more decisive action had not been taken in recent years. Considerable progress had nevertheless been made, for example the establishment of the Brigade for the Protection of Minors which featured a telephone hotline service, and the adoption of the National Programme of Action on Behalf of Women and Children (PNA), under which the rate of BCG coverage had risen to 96 per cent and coverage for measles to 81 per cent in 1996. Those figures had improved still further since the compilation of the report. The National Programme of Action continued to focus on nutrition, education, training, information, clean water, disease control and the fight against AIDS. Between 17 and 19 per cent of the national budget was allocated to health care, an area in which partnership with external actors was particularly important. It was not possible to isolate the proportion of resources allocated specifically to children, since assistance to mothers and children was regarded as a unity.

3. In the field of education, the overall rate of school enrolment in 1992 had been 33.8 per cent, with rates of 41.2 per cent for boys and 25.6 per cent for girls. In 1995 the overall rate had increased to 54.6 per cent, with rates of 67.6 per cent for boys and 40.5 per cent for girls. Those national averages masked regional discrepancies. In order to encourage female enrolment in schools, school fees for girls in rural areas had been abolished. Although nearly 30 per cent of the State budget was allocated to education, there were still too few teachers, school premises left much to be desired, and teaching materials were non-existent. However, a policy of decentralization had resulted in local communities assuming greater control over the management of schools.

4. The age of majority in Benin was 18 years and the best interests of the child were enshrined in Beninese law. In many cases, however, traditional practices were at variance with that progressive outlook, for example with regard to the problems of genital mutilation, Vidomegon children (domestic workers who were frequently subjected to abuse) and child labour. The Government was attempting to combat those evils through education and awareness-raising programmes aimed at parents and employers. Children could be taken into care, and special facilities existed for that purpose, but the

problem of supervision and monitoring remained acute. Drugs were another source of concern, since Benin was a country of transit for people and goods alike. The Government had established a Vice and Drugs Squad which was working closely with parents, judges and non-governmental organizations (NGOs), yet the scale of the problem had continued to grow.

5. An important point to remember was that Benin was a country under construction. The National Assembly was in the process of concluding its consideration of the draft Personal and Family Code, and the draft Code of Criminal Procedure was awaiting the opinion of the Supreme Court before being submitted to the National Assembly. The Framework Plan for the period 1998-2000 had been adopted in July 1998; it laid down objectives for the development of human capital, education and health care. The Committee should also bear in mind that the Government of Benin was operating within the framework of a structural adjustment programme.

6. The CHAIRPERSON invited the members of the Committee to raise questions concerning general measures of implementation.

7. Mr. FULCI said that the report contained valuable statistical data which tallied with information received by the Committee from other sources. Moreover, the report and oral presentation had been self-critical and highlighted the challenges and difficulties facing the country. However, the Committee would have been grateful for more information on the actual impact of policies and programmes to improve the status of children. It would be interesting to know whether the Beninese Government had ever considered appointing an ombudsman, responsible solely to Parliament, to protect and promote children's rights.

8. Mr. RABAH said that the State party should provide further details about measures to harmonize customary and positive law. In addition, it would be helpful to know whether there existed any mechanism to coordinate the activities of the various ministries listed in paragraph 18 of the report, and whether any steps had been taken to disseminate the Convention among children. Finally, updated information would be appreciated about the prospects for enacting a comprehensive children's code.

9. Mrs. MOKHUANE said that the report provided a thorough insight into the situation of children in Benin, but she would have liked more information about the Dahomey Code of Customary Law (Coutumier du Dahomey), specifically concerning any inconsistencies with the Convention. On the subject of awareness-raising campaigns, she asked what measures the authorities had taken to reach out to a largely illiterate population with a strong oral tradition, since the seminars mentioned in the report were presumably intended for intellectuals.

10. Although national law was consistent with the Convention, it was still unclear whether the Convention could be invoked directly in Beninese courts. Finally, the delegation should comment on claims that the Benin Committee for Human Rights had failed to carry out any enforcement or implementation measures.

11. Mrs. OUEDRAOGO said that the reporting State should explain why the report had been submitted so late. She would particularly welcome an explanation of the methodology used in its compilation. It was clear that the Beninese authorities had a good working relationship with NGOs, but more information should be supplied on the channels of communication between such organizations and the Government. In particular, it would be interesting to hear more about steps to ensure that their respective tasks were performed as efficiently as possible, without duplication of effort. The delegation should indicate whether NGOs were assisted financially or otherwise. The Committee also wished to know whether there had been any public debate about the initial report and whether it had been widely disseminated. What publicity, for example, had been given to the State party's appearance before the Committee? Finally, the State party should specify what impact the general principles of the Convention had had on the lives of children in Benin.

12. Mrs. KARP joined her colleagues in their praise for the frank and self-critical presentation by the head of the Beninese delegation and the Government's illuminating report. However, she was disturbed by the fact that the statistics all referred to children up to the age of 15, omitting from the evaluation the 15 to 18 age group, which was a vital phase of adolescence and one that could not be properly evaluated without data on their specific problems and characteristics. Were there any plans to remedy that deficiency and provide complete disaggregated data?

13. The coexistence of national laws and customary traditions had an important and damaging impact on the best interests of the child, in regard to inheritance, corporal punishment - an often abused practice - and early and forced marriages, areas in which many countries applied customary law exclusively. Any custom that violated a child's rights should be prohibited by legislation. Benin appeared to permit excesses of both law and custom, which were not in the best interests of the child. The solution would be to change societal attitudes, a difficult task at best, given the country's 42 major ethnic groups, 18 major languages, 50 dialects, and a plethora of traditions.

14. She asked whether publicity campaigns were conducted in an effort to alert the various population groups to the damage inflicted on children by customary laws. Did the country's tribal leaders provide grass-roots education on children's rights? She also wondered where the country stood with regard to the drafting of the Family Code and the Children's Code and when they would be enacted.

15. She asked what proportion of the overall budget was earmarked for children's affairs, and what child-right priorities had been set other than health and education. Was there any national mechanism for coordinating the various sources of international aid and aid under the national budget? While reference had been made to coordination in the written replies, there was as yet no independent monitoring body. Had any thought been given to the possibility of establishing an independent external structure to monitor the government offices and departments that dealt with children's rights?

16. Mr. DOEK called for clarification of the disparity implicit in the fact that, while the written reply to question 5 on the list of issues stated that health spending had fallen from 6.57 per cent of total expenditure in 1995 to 5.05 per cent in 1997, the delegation had claimed that health accounted for a much higher level of expenditure. While the reply to question 2 had provided information on several departments of the Ministry of Justice, Legislation and Human Rights involved in children's issues, no specific body appeared to be exclusively responsible for coordinating and monitoring implementation of the Convention. He asked why that was so and whether any change in the situation was envisaged. Was the Government planning to increase the budgetary allocation to those governmental agencies in order to enhance their operational capacity?

17. Mrs. EL GUINDI, noting that the Ministry of Justice appeared to have major responsibility for monitoring implementation of the Convention on the Rights of the Child, requested further information on the coordination of its activities with those of other ministries.

18. Mrs. MOKHUANE asked what role children had played in the preparation of the report and whether they had been able to express their views on the Convention and on their rights. She had noted that one non-governmental organization was involved in disseminating human rights information, but wondered whether there were any plans to integrate human rights in general, and the Convention in particular, into school curricula. If so, what progress had been made and what obstacles encountered?

19. Mrs. KARP requested further information on the proposal to amend the Decree establishing the National Monitoring Committee by incorporating an article on a sub-committee dealing specifically with the rights of the child. She inquired about public campaigns designed to alter attitudes and the existence of plans to educate the public in a society which practised three major religions: animism, Islam and Christianity. The diversity of religious beliefs called for a highly sophisticated approach to the issue of rights education. With regard to the dissemination of the Convention she asked whether it needed to be translated into languages other than French.

The meeting was suspended at 11 a.m. and resumed at 11.15 a.m.

20. The CHAIRPERSON invited the delegation of Benin to reply to the questions raised by Committee members.

21. Mr. GNONLONFOUN (Benin) thanked the members of the Committee for their insightful questions and observations, which attested to their interest in Benin. One of Benin's age-old problems was its traditional customs, some of which had disappeared while others persisted. Faced with the abundance of traditions, the colonizers had established the Dahomey Code of Customary Law (Coutumier du Dahomey), which the courts relied upon to supplement national legislation. Each sub-prefecture, even in the remotest areas, had conciliation courts which would remain in existence until 2000. They dealt with cases of landed property rights, divorce and similar matters, and their rulings were subsequently transmitted to the departmental courts. The conciliation courts applied customary law, but changes in the system were long overdue.

22. Lobbying by women had overcome male chauvinist resistance to the new draft Personal and Family Code, which was likely to be adopted by the National Assembly in the very near future. He also exected the Dahomey Code to be repealed. Article 1 of the new Code stipulated inter alia that all individuals, regardless of sex, colour, religion, or any other differences, could exercise the right of succession, while article 16 established that all children, whether born in or out of wedlock, had a right to bear their parents' names. The concept of illegitimacy was alien to Benin, where children were considered to have the right to live in a family setting.

23. The idea of an independent ombudsman was alien to the traditions of a society which was wary of vesting too much power in any such appointee. Given the very strict separation of powers, the National Assembly was not authorized by the Constitution to make such an appointment. That task was entrusted to the Benin Committee for Human Rights, on which both NGOs and the authorities were represented.

24. Child labour was governed by a recent Act, promulgated after the initial report had been submitted, which laid down the minimum ages - ranging from 13 to 18 - at which children could enter different types of employment or go into apprenticeship.

25. One reason for the delay in preparation of the report was the fact that, although Benin had ratified the Convention on the Rights of the Child in August 1990, the country had not long before emerged from a 17-year revolution, following which a National Conference had culminated in the adoption of a new Constitution on 11 December 1990. The subsequent establishment of the various institutions provided for in the new Constitution had proved to be a lengthy process. The second reason was that the Committee's reporting guidelines had not been observed in the first draft of the report; a consultant had therefore been recruited to assist with the new draft, which had been prepared between 1993 and 1994. Upon his departure, the authorities had organized a seminar in December 1995, on the basis of which the report had been drawn up and submitted in January 1997.

26. New NGOs were constantly emerging; all those involved in children's issues at the time had contributed to the preparation of the report and no problems had been encountered. While there had been no nationwide participation by children in the drafting of the report, they had possibly had some input at the NGO level. In his first speech following his appointment as Minister of Justice, he had recommended dissemination of the Convention in southern Benin, which shared an extensive border with its massive neighbour Nigeria. The new rural radio network operating in the departments and in some prefectures had aired a summary of the report, and he himself had given a radio interview on that subject.

27. In reply to Mr. Doek's question, he said that the 6.57 per cent of total expenditure mentioned in the report referred exclusively to health care. It was possible that insufficient resources were devoted to promoting children's issues in the national budget, but macroeconomic considerations were inevitably the main concern of the Finance Minister of a country in the throes of structural adjustment. Government ministers usually failed to realize that

the "20-20" concept extended to such matters as planning and the environment, and that macroeconomic balance was of little avail if a major imbalance existed at the human level.

28. He asked the Committee to intercede on his country's behalf with the International Monetary Fund and the World Bank, with a view to obtaining some easing of the budgetary restrictions imposed under the structural adjustment programme, which had virtually halted recruitment in the health, education and judicial sectors for many years. Furthermore, in compliance with donors' requirements, his Government funded some of the activities of credible non-governmental organizations, but not the day-to-day running of the organizations themselves.

29. Since Beninese customary law was somewhat out of date and each ethnic group had its own customs which sometimes conflicted with one another, it was necessary to expedite the adoption of more up-to-date legislation based on the provisions of international conventions. He added that in Benin, those provisions took precedence over all national statutes apart from the Constitution.

30. The Ministry of Justice was responsible for coordinating all action relating to minors. The Benin Committee for Human Rights had adopted its programme of activities for 1999 in October 1998. The first meeting of the Coordinating Committee ought to have been held in March, but had been postponed owing to the general election.

31. Benin had no Children's Code. The drafting of such an instrument was not feasible in the short term and in all likelihood its adoption by the National Assembly would be a lengthy procedure, probably spread over several years. Serious consideration was, however, being given to the publication of a compilation of texts on child labour, juvenile justice and education.

32. There was no specific budgetary heading for children. Appropriations were divided among the Ministries of Health, Education and Justice. It was therefore difficult to say exactly what proportion of the budget was spent on children.

33. The delegation had not held a press conference before leaving for Geneva. It had only sought government authorization to represent Benin.

34. As 32 languages were spoken in the country, disseminating knowledge of the Convention was a difficult task, but in rural areas, radio programmes had broadcast summaries of the Convention in 7 national languages. A little book called Les mésaventures de Sika had been translated into eight languages and widely circulated. Both the book and comic sketches on radio and television were designed to inculcate an awareness that the maltreatment of children, especially Vidomegons, was unacceptable, and the message seemed to have been understood.

35. In his opinion tribal leaders, as an institution, had to be treated with caution, since they were inclined to regard themselves as indispensable. The Constitution did not, therefore, contain any specific reference to them. If, however, they were to form associations which then proposed schemes to promote

and protect children's rights, the Government could grant them support. Nevertheless, as they usually practised polygamy and might each have as many as 100 children, it was hard to see how they would find any time to look after the interests of other people's offspring. On the other hand, religious leaders were of great assistance and in point of fact ran even more children's centres than the Government. They were given the opportunity to attend seminars and meetings organized by the Government and had been invited to events to mark the fiftieth anniversary of the Universal Declaration of Human Rights.

36. In response to the question about statistics on the 15 to 18 age group, he said that those young people had not been forgotten, as they were covered by legislation and statistical data relating to 14 to 21-year-olds. No separate statistics were compiled, although there were plans to do so in the future. The only specific statistics on that particular age bracket were those assembled by the Ministry of Health as part of its reproductive health programmes.

37. The CHAIRPERSON invited the members of the Committee to ask follow-up questions concerning general measures of implementation and general principles.

38. Mrs. QUEDRAOGO thanked the Minister for his precise replies and asked whether the planned decentralization of education would apply to all programmes. Was the delegation going to hold a national press conference to publicize the submission of its report, the Committee's main observations and recommendations and any further plans regarding implementation of the Convention? Did the delegation not think that more needed to be done to change attitudes and disseminate knowledge of the Convention in rural areas? She suggested that women might be a crucial factor in that connection, as they exerted great influence in villages. She noted the Government's reservations about involving tribal leaders in its projects and programmes, but felt that they could play a useful role if they could be convinced of the need to respect children's rights and alter certain practices and traditions which were not beneficial to children. What steps had been taken to circulate Les mésaventures de Sika in rural areas? How was the message it contained imparted to the illiterate sections of the population?

39. Mr. DOEK, referring to paragraphs 44 and 92 of the report, asked if the emancipation of minors existed in practice and in what circumstances. On the matter of locus standi mentioned in paragraph 46, he asked what would happen if a child disagreed with his or her parents about health problems, for example. Had Benin ratified ILO Convention No. 138 concerning the Minimum Age for Admission to Employment? He wondered why the Government of Benin did not simply change the law on marriage to eliminate discrimination between boys and girls. He asked the delegation to comment on children's apparent lack of freedom of decision and possible plans to remedy that situation. Why did the Government not make sexual education compulsory instead of merely recommending that greater attention should be paid to that subject in schools? Was it true that the law did not require any special action by a father to establish paternity, as was implied in paragraph 72 of the report? He requested clarification of the information supplied in paragraph 81 of the report

regarding preservation of identity. Did children in Benin have the right of freedom of association? Could they really set up organizations in schools or join trade unions?

40. Mr. RABAH noted from paragraphs 57 and 58 of the report that, while the Benin Constitution empowered the State to ensure equality before the law, many forms of discrimination existed in practice. What measures had the Government taken to ensure that the best interests of girls were taken into consideration, especially in the area of education? It was stated in paragraph 69 that great importance was attached to the views of children. What measures had the Government taken to introduce that principle into family and tribal life?

41. Mrs. MOKHUANE said that Benin seemed to apply no precise definition of childhood; in that regard, she was concerned that the national legislation did not take into consideration the principle of the best interests of the child or the child's right to be heard in accordance with his or her evolving capacities. It would be useful to know how the Dahomey Code of Customary Law regulated marriage: as of what age were marriages arranged?

42. Mrs. KARP said that more important than whether or not the Convention took precedence over national legislation was the matter of what measures were taken to enforce its terms. Female genital mutilation, for instance, was forbidden by law but widely practised. The Government should describe how, and to what extent, customary law influenced law enforcement, and what measures could be taken to protect legal rights when they were not in conformity with customary law.

43. It would be useful to know whether the Benin Committee for Human Rights had a special branch dealing with children's issues. The Government of Benin should consider establishing an independent and independently funded ombudsman, responsible to the National Assembly, who would focus exclusively on the interests of children.

44. It had been stated that a comprehensive Children's Code was unlikely to be adopted by the National Assembly. However, the elaboration of such a code was sure to spark national debate and to begin to educate legislators in the matter of children's rights. What measures had the Government undertaken to inform legislators about the Convention as well as about their role in its implementation? She strongly urged Benin to consider compiling in a single document all child-related provisions of its national legislation, with a view to determining whether, individually and as a whole, they conformed with the principles of the Convention and what additional legislation would be required to bring them into conformity with that instrument.

45. A higher marriage age for boys discriminated against girls and affected many of their rights under the Convention. The authorization of early marriage for girls impaired their right to survival and development. Since early marriage was usually followed by early births, both the right to life and the right to personal integrity were affected. Other rights protected by the Convention were also relevant in that context, in particular the right to health and the right to education.

46. She asked what measures the Government had taken to protect girls from discrimination against their inheritance rights under the customary law? What steps had been taken to eradicate the practice of killing babies with disabilities? In addition, the Government should describe what measures it had taken to enforce laws prohibiting female genital mutilation, and what efforts had been made to raise public awareness about them. To what extent did the practice of forced marriage in Benin conform with the principles of the Convention?

47. What mechanisms had been established to permit children to lodge complaints regarding their treatment in such institutions as schools, health-care centres and the juvenile justice system? How were children's complaints handled and resolved? Were child-care professionals trained to take account of children's views?

48. Finally, she asked what measures had been taken to ensure that information concerning reproductive health and birth control was disseminated throughout the country.

49. Mrs. OUEDRAOGO inquired whether the Government had taken steps to eradicate discrimination against disabled persons in daily life.

50. Mrs. EL GUINDI asked whether, in the view of the Government, there was a relationship between the low age of marriage for girls and the rate of maternal mortality, which was among the highest in the world.

51. Mr. FULCI inquired whether children in Benin, both from cities and remote villages, were aware of the existence of the Convention. The Government had announced its intention to formulate a family code: it would nonetheless be useful to know what action was being taken to combat discrimination against twins, for instance, or children with congenital defects, to improve the level of school enrolment among girls, and to protect the property rights of girls. What legal measures had already been taken to combat the alarming prevalence of infanticide?

52. The CHAIRPERSON invited the members of the Beninese delegation to reply to the questions raised.

53. Mr. GNONLONFOUN (Benin) said that the Government of Benin was heavily centralized. The Constitution provided that national programmes should be carried out by the local communities but financed by the State. As a result, health and education programmes for children were administered at the local level with the participation of the Mayor, municipal councillors and district leaders. Similarly, both national and international non-governmental organizations worked more closely with local communities than with the central Government.

54. Although his delegation had not held a press conference before appearing before the Committee, it would contemplate doing so afterwards, when it had the concluding observations in hand. The Government would study the suggestion that it should make use of the traditional network of tribal chiefs

to disseminate information about the Convention. Les mésaventures de Sika had been translated into eight national languages and had been broadcast in those languages on rural radio stations.

55. It was essential to understand that the Government only consulted the Dahomey Code of Customary Law when no other national or international legislation was readily applicable. Adopted in 1931, the Code had served its purpose well, but many of its provisions had become obsolete.

56. The new Labour Code prohibited discrimination against disabled persons in employment. It also provided that employers who offered work to disabled persons were entitled to tax benefits; both the Government and interested NGOs encouraged employers to take advantage of that entitlement.

57. Although Benin was striving to introduce legislation consistent with the Convention, that was a slow process. He agreed that training and awareness sessions should be conducted to introduce the principles of the Convention to legislators. As to the question whether children had recourse to legal assistance, he said that a Brigade for the Protection of Minors had been set up, with a telephone hotline that children could call if they required assistance. However, he did not know how many children had used that service. In addition, although the Government had adopted ILO Convention No. 138, that instrument had not yet been ratified by the National Assembly.

58. The members of the Committee should endeavour to understand the social context within which the Government was attempting to implement the terms of the Convention. It could not simply force its citizens to abide by ideas and principles that were alien to them, and there would be no point in adopting laws that could not be enforced. The draft Family Code raised the marriage age to 16 for girls; that should be considered a step forward in a gradual process of implementation.

59. As to the question whether a young person was free to marry without parental consent, he had been asked his views regarding the marriage of his son. Both he and the father of the bride had approved the idea of a traditional wedding. Those were realities that were not reflected in the Convention or in the national law, but which all sub-Saharan Africans would surely understand.

The meeting rose at 1.05 p.m.